

REMARKS

In section 1 of the Office Action, the Examiner required formal drawings. Accordingly, formal drawings are being submitted concurrently with this response.

In section 3 of the Office Action, the Examiner rejected claims 44-57 and 59-63 under 35 U.S.C. §103(a) as being unpatentable over the Patterson patent in view of the Britt patent and further in view of the Fuhrmann patent.

Independent claim 44 is directed to a web television comprising a display, a tuner, an internet module, and a television controller. The tuner selects television video for display on the display. The internet module supplies internet video for display on the display, the internet video is derived from internet communications between the web television and internet content providers, and the internet module is programmed to execute a first software code. The television controller is separate from the internet module and is computer based, the television controller communicates with the internet module using a message format, the television controller is programmed to execute a second software code, and the television controller is arranged to process a message between the television controller

and the internet module indicating identification of one of the first and second software codes.

The Patterson patent discloses a digital satellite system 10 having a tuner 12 that couples a digital signal from a satellite dish to a digital satellite system link 14. The digital satellite system link 14 includes a QPSK demodulator, a Viterbi decoder, and a Reed-Solomon decoder. The digital satellite system link 14 demodulates and decodes the digital communication signal from the tuner 12 and converts it to a transport signal which is demultiplexed and descrambled by a digital satellite system transport demux 16. The output of the digital satellite system transport demux 16 is a data stream that includes compressed digital audio and video signals. The digital satellite system transport demux 16 provides the compressed digital audio and video signals to an MPEG decoder 18 which decompresses and separates the digital audio and video into separate digital audio and video signals.

The digital audio and video signals are converted to corresponding analog audio and video signals for supply to a television at baseband. Additionally, the analog audio and video signals are modulated by an RF

modulator 24 as a channel 3 or 4 signal for supply as an RF signal to the television.

Thus, as can be seen by the above description, the digital satellite system 10 is a set top satellite converter box.

The digital satellite system 10 also includes a microprocessor 26 that interfaces to the provider through a relatively low-speed modem 28 and a smart card interface and microcontroller 30. The smart card interface and microcontroller 30 supports the ordering of pay-per-view movies from the provider. Also, the microprocessor 26 controls a graphics controller 32, which generates graphics for an on-screen display.

According to the Patterson patent, the digital satellite system 10 of FIG. 1 is inadequate to use the Internet to support communications between the digital satellite system 10 and the provider. Therefore, as shown in Figure 2, the relatively slow modem 28 is replaced by a relatively fast modem 40 that is intended to provide adequate Internet access, and the microprocessor 26 controls communication over the Internet. Input from the user may be made directly to the microprocessor 26 through an appropriate user input

device 42. Thus, a user is able to surf the Internet while watching satellite programming.

The Patterson patent fails to disclose a number of limitations of independent claim 44.

First, the Patterson patent fails to disclose a television controller that is separate from an internet module and that is computer based. The Examiner points to the microprocessor 26 and the modem 40 of the Patterson patent as the internet module of independent claim 44, and the Examiner points to the microprocessor 26 again as well as to the digital satellite system link 14 and the digital satellite system transport demux 16 of the Patterson patent as the television controller of independent claim 44.

However, under this interpretation of the Patterson patent, the internet module and the computer based television controller are not separate as required by independent claim 44.

The Britt patent cited by the Examiner does not help the Examiner's rejection in this regard because the Britt patent also does not disclose a computer based television controller that is separate from an internet module.

Similarly, the Fuhrmann patent also cited by the Examiner does not help the Examiner's rejection in this regard because the Fuhrmann patent also does not disclose a computer based television controller that is separate from an internet module.

Accordingly, a combination of the Patterson patent, the Britt patent, and the Fuhrmann patent cannot disclose or teach the invention of independent claim 44.

The Examiner asserts that the microprocessor 26 disclosed in the Patterson patent must inherently operate in response to the execution of software, and that this software must inherently include a portion that controls internet communications and a portion that controls television functions. Then, according to the Examiner, the portion of the software that controls internet communications is the internet module, and the portion of the software that controls the television functions is the television controller.

There are at least two problems with this assertion of the Examiner. First, independent claim 44 requires the television controller to be computer based. Assuming that the television controller is a portion of the software that executes on the microprocessor 26 disclosed in the Patterson patent, this software position

is not computer based. Also, assuming that the microprocessor 26 is part of the television controller along with the software portion, then the television controller is no longer separate from the internet module.

Second, an inherent disclosure must be an inevitable consequence of what is actually disclosed. It is not inevitable that that software executing on the microprocessor 26 necessarily includes either a portion that controls internet communications or a portion that controls television functions or both. These functions could be performed by hardware that is either part of the microprocessor 26 or separate from the microprocessor 26.

Therefore, because a premise of the Examiner's rejection is incorrect, the rejection of independent claim 44 must fail.

Second, there is no disclosure in the Patterson patent that a television controller communicates with an internet module using a message format. Indeed, given the Examiner's application of the Patterson patent to independent claim 44, there is no need for the television controller to communicate with the internet module.

The Britt patent also does not disclose any communication by a television controller with an internet module using a message format or otherwise.

Similarly, the Fuhrmann patent does not disclose any communication by a television controller with an internet module using a message format or otherwise.

Accordingly, for this reason also, a combination of the Patterson patent, the Britt patent, and the Fuhrmann patent cannot disclose or teach the invention of independent claim 44.

Third, as recognized by the Examiner, the Patterson patent does not disclose the communication of a message between a television controller and an internet module of a web television, where the message indicates identification of either the software code executing on the internet module or the software code executing on the internet module.

Therefore, the Examiner relies on the Britt patent which, according to the Examiner, discloses the communication of software version information so that the set top box 10 can retrieve the proper upgrade files from a remote server. The Examiner then opines that it would have been obvious in view of the Britt patent to modify

the set top box 10 disclosed in the Patterson patent so that the set top box 10 disclosed in the Patterson patent could use the software version identification to upgrade its own software.

However, as disclosed in the Britt patent, the software version information is communicated to a remote server. There is no disclosure in the Britt patent that software version information is communicated between a television controller and an internet module of a web television.

The Examiner recognizes that neither the Patterson patent nor the Britt patent disclose the communication of software version information between a television controller and an internet module of a web television. Therefore, the Examiner relies on column 95, lines 11-22 of the Fuhrmann patent for evidence that those of ordinary skill in the art would recognize the benefit of having software programs compare software revision information.

However, there is no suggestion in Patterson patent or in the Britt patent or in the Fuhrmann patent for the communication of software revision information between a television controller and an internet module of a web television.

The Britt patent merely suggests that software revision information be communicated between a set top box and a remote server. The remote server is neither a television controller nor an internet module of a web television.

The Fuhrmann patent at column 95, lines 11-22 merely discloses that, when the link between a remote unit and the central unit is active, the remote unit can begin receiving messages after receiving a hello message from the central unit. The hello message gives the central unit's software revision number to the remote unit. The revision number allows the remote unit to check its software revision number for compatibility. As disclosed in column 15, lines 30-32, each subscriber transmitter in a cable system is referred to as a remote unit or RU, and the central unit is referred to as the central unit or CU.

Accordingly, like the Britt patent, the Fuhrmann patent discloses communication of software revision information between a set top box (i.e., remote unit in the case of the Fuhrmann patent) and a remote server (i.e., central unit in the case of the Fuhrmann patent).

Accordingly, neither the Britt patent nor the Fuhrmann patent suggests the communication of software revision information between a television controller and an internet module of a web television.

For this further reason, independent claim 44 is patentable over the Patterson patent in view of the Britt patent and further in view of the Fuhrmann patent.

Independent claim 60 is directed to a web television comprising a display, a tuner that selects television video for display on the display, a television controller, and an internet module. The internet module supplies internet video for display on the display, the internet video is derived from internet communications between the web television and internet content providers, the television controller and the internet module communicate messages with one another, and one of the messages contains software identification information.

As discussed above, and as the Examiner has recognized, the Patterson patent does not disclose the communication of a message between a television controller and an internet module of a web television, where the message contains software identification information.

Therefore, the Examiner relies on the Britt patent which, according to the Examiner, discloses the communication of software version information to a remote server so that the set top box 10 can retrieve the proper upgrade files from the remote server.

However, as discussed above and as disclosed in the Britt patent, the software version information is communicated to a remote server. There is no disclosure or suggestion in the Britt patent that software version information is communicated between a television controller and an internet module of a web television.

Similarly as discussed above, there is no disclosure or suggestion in the Britt patent that software version information is communicated between a television controller and an internet module of a web television.

Accordingly, neither the Britt patent nor the Fuhrmann patent suggests communication of software revision information between a television controller and an internet module of a web television.

For this reason, independent claim 60 is patentable over the Patterson patent in view of the Britt patent and further in view of the Fuhrmann patent.

The Examiner also rejected claims 44 and 60 on the basis of double patenting. Accordingly, a terminal disclaimer is filed herewith.

CONCLUSION

In view of the above, it is clear that the claims of the present application are patentable over the art applied by the Examiner. Accordingly, allowance of these claims and issuance of the above captioned patent application are respectfully requested.

Respectfully submitted,

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